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ACP, Inc.  
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Filed

APR 08 2013

RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA,  
SAN JOSE

8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA

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11 ACP, INC., a Delaware corporation,

CV13-01572  
Case No.

HRL

12 Plaintiff,

COMPLAINT FOR DAMAGES FOR  
BREACH OF CONTRACT

13 v.

JURY TRIAL DEMANDED

14 SKYPATROL, LLC, a Florida Limited Liability  
15 Company, and GORDON HOWARD  
ASSOCIATES, INC., doing business as  
16 PassTime USA, a Colorado corporation,

17 Defendants.

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Plaintiff ACP, Inc. (“ACP”) complains of defendants SkyPatrol, LLC (“SkyPatrol”) and Gordon Howard Associates, Inc., doing business as PassTime USA (“PassTime”), as follows:

1. ACP is a corporation organized and existing under the laws of the State of Delaware with its principal place of business in Palo Alto, California.

2. SkyPatrol is a limited liability company organized and existing under the laws of the State of Florida, with its principal place of business in Miami, Florida. Each member of SkyPatrol is a citizen of the State of Florida.

3. PassTime is a corporation organized and existing under the laws of the State of Colorado, with its principal place of business in Littleton, Colorado.

## **JURISDICTION**

4. This Court has jurisdiction over the subject matter of this action under 28 U.S.C. § 1332 in that plaintiff ACP and defendants SkyPatrol and PassTime are citizens of different states and the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs.

## VENUE

5. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b)(1) and (2).

## **INTRADISTRICT ASSIGNMENT**

6. Intradistrict assignment is proper in the San Jose Division pursuant to Civil Local Rule 3-2(c).

**CLAIM FOR RELIEF  
(Breach of Written Contract)**

7. ACP realleges and incorporates by reference the allegations of paragraphs 1-6, inclusive, as if fully set forth herein.

8. On or about January 7, 2012, ACP, SkyPatrol, and PassTime entered into a written contract by which ACP proposed a business transaction to SkyPatrol and PassTime. In exchange therefor, and as an inducement to ACP's investigation of the potential transaction, SkyPatrol and PassTime jointly and severally agreed to reimburse ACP for its actual out-of-pocket expenses incurred in pursuit of the potential transaction.

9. ACP has provided all performance due from it under the contract, and satisfied all conditions to the obligations of SkyPatrol and PassTime to provide the performance required of them under the contract.

10. In pursuit of the transaction, ACP has incurred actual out-of-pocket expenses in an amount in excess of the sum of \$75,000, exclusive of interest and costs. ACP has demanded that SkyPatrol and PassTime reimburse ACP for its expenses, but SkyPatrol and PassTime have breached the contract by failing to do so.

11. The breaches by SkyPatrol and PassTime have caused damages to ACP in an amount in excess of the sum of \$75,000, exclusive of interest and costs, in an amount to be determined at trial.

## **PRAYER FOR RELIEF**

WHEREFORE, ACP prays for judgment as follows:

1. For damages in an amount in excess of \$75,000, exclusive of interest and costs, in an amount to be determined at trial;
2. For costs of suit and reasonable attorneys' fees incurred herein;
3. For prejudgment interest and post-judgment interest as provided by law;
4. For such other relief as the Court deems proper.

Dated: April 8, 2013

FREITAS TSENG & KAUFMAN LLP

Jessica N. Leal  
Attorneys for Plaintiff  
ACP, Inc.

1                           **DEMAND FOR JURY TRIAL**

2                           ACP demands a trial by jury of all issues so triable.

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4                           Dated: April 8, 2013

FREITAS TSENG & KAUFMAN LLP

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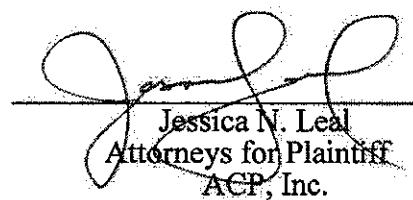
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Jessica N. Leal  
Attorneys for Plaintiff  
ACP, Inc.